

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN STEVE VICK**, on March 19, 2001 at 3:00 P.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Steve Vick, Chairman (R)
Rep. Dave Lewis, Vice Chairman (R)
Rep. Matt McCann, Vice Chairman (D)
Rep. John Brueggeman (R)
Rep. Rosalie (Rosie) Buzzas (D)
Rep. Tim Callahan (D)
Rep. Edith Clark (R)
Rep. Bob Davies (R)
Rep. Stanley Fisher (R)
Rep. Dick Haines (R)
Rep. Joey Jayne (D)
Rep. Dave Kasten (R)
Rep. Christine Kaufmann (D)
Rep. Monica Lindeen (D)
Rep. Jeff Pattison (R)
Rep. Art Peterson (R)
Rep. Joe Tropila (D)
Rep. John Witt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Paula Broadhurst, Committee Secretary
Taryn Purdy, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 5, HB 14
Executive Action: HB 3, HB 13, HB 5, HB 14

HEARING ON HB 5 & HB 14

Sponsor: REP. MATT MCCANN, HD 92, HARLEM

Proponents: None

Opponents: None

Opening Statement by Sponsor:

REP. MATT MCCANN, HD 92, HARLEM, introduced both bills and began by describing the committee that reviewed the bills. He explained it was the job to weed through the cash program dealing with maintenance. He handed out an explanation of the bill **EXHIBIT (aph62b01)**. He stated HB 14 dealt with new construction in the state and some renovation.

Proponents' Testimony: None

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. ROSIE BUZZAS asked for an explanation where the money for the Lewis and Clark Bicentennial was coming from. REP. MCCANN said it was struck out all together.

REP. CHRISTINE KAUFMANN said it looked like a savings of \$52 million and wondered where the money was. REP. MCCANN explained where the adjustment was made to strike the construction of the DPHHS building in Helena.

REP. KAUFMANN referred to Helena College of Technology being struck from the list. REP. MCCANN said it deal with prior long range planning. He said they wanted to see a plan a year in advance to consider the project. CHAIRMAN VICK mentioned it was ranked 59th on the list of projects for the state.

REP. BUZZAS asked if the ones on the list receiving no funding had other sources. REP. MCCANN answered yes and named the projects.

REP. BUZZAS asked if the money available had been spent. REP. MCCANN believed there was \$1 million left within the cash program in HB 5.

{Tape 1; Side B}

REP. KAUFMANN asked how long the priority list was. **Brian McCullough, Legislative Fiscal Division**, explained the ranking on the list and referred to each project on the list.

REP. MONICA LINDEEN asked if the Helena College of Technology would have a better chance of being funded in the next session. **REP. MCCANN** explained the funding amounts and what the project involved.

REP. DICK HAINES asked if there were any opportunities in the bill for the HB 12 program dealing with energy retrofit. **Tom O'Connell, Administrator, Architecture & Engineering Division**, said there was language in HB 5 directed to work with the Department of Environmental Quality. He said it would administer the energy program to research ways to incorporate the program into the design of all the facilities approved in HB 14.

REP. HAINES wondered if the program would effect heating, ventilation and air conditioning renovations. **Tom O'Connell** said yes. He state it would take the same energy program and apply it to others.

Closing by Sponsor:

REP. MATT MCCANN, HD 92, HARLEM, summarized HB 5 and went through the handout. He explained projects in HB 14 not included in HB 5 including the reception area at Deer Lodge Prison.

EXECUTIVE ACTION ON HB 3

Motion: **REP. FISHER** moved HB 3 BE AMENDED. Amendments were handed out **EXHIBIT**(aph62b02).

Discussion:

REP. KAUFMANN wanted clarification on the amendments and wondered about the action of the sub-committee work. **CHAIRMAN VICK** said there was no sub-committee with this bill.

REP. BUZZAS wondered if the amendment was reflective of the two sheets they had reviewed early. She asked if the Department of Corrections had received a supplemental in the last session. **Joe Williams, Department of Corrections**, explained the history of the past sessions. He said during 1999 they did not have a supplemental, in 1997 the supplemental was \$8.9 million and \$3.6 of that dealt with offenders in contract beds, \$5.3 dealt with

juvenile placement funds. He stated prior to these sessions it had revolved around inmate medical costs.

REP. BUZZAS asked if there was a supplemental every year. **Joe Williams** answered yes.

REP. BUZZAS thought they were receiving special consideration and wondered why it couldn't be found in the budgets.

REP. STANLEY FISHER commented the prisons did not bring much money in, but the university did have an income level.

REP. DAVE KASTEN asked what percent of the budget was for corrections. **Joe Williams** said it was approximately 8 to 10%.

REP. MCCANN commented the only supplemental he was aware of was in the mental health community. He asked when the supplemental for the Department of Corrections surfaced. **CHAIRMAN VICK** thought it was dealt with later by the sub-committee because they were trying to mitigate it.

REP. LINDEEN commented about the university shortfall and wanted to know if an amendment was needed. **CHAIRMAN VICK** said numbers could be changed, but it wasn't like HB 2 how the money would be spent.

CHAIRMAN STEVE VICK explained they were voting for the approval of \$4 million supplemental for Department of Corrections.

Vote: Motion carried 10-8 with **REP. BUZZAS, REP. HAINES, REP. JAYNE, REP. KAUFMANN, REP. LINDEEN, REP. MCCANN, REP. TROPILA** and **REP. WITT** voting no.

CHAIRMAN VICK had a voice vote taken for **REP. FISHER'S** other amendments.

Vote: Motion carried 16-2 **REP. MCCANN** and **REP. WITT** voting no.

{Tape 2; Side A}

Discussion on Amendments:

CHAIRMAN VICK said there were two parts to the amendments. **REP. DAVE LEWIS** added the assistance in restructuring the mental health program for addictive and mental health issues.

CHAIRMAN VICK asked if the would be a new proposal starting immediately rather than waiting until the next biennium. **REP.**

LEWIS said that was correct. He added it was approved in HB 2 for the next biennium.

REP. LINDEEN asked about the process and wondered if a supplemental bill was the correct place for this. **REP. LEWIS** if money was to be added to the current fiscal year, HB 3 was where it would be done.

REP. BUZZAS wondered about the FTEs. **REP. LEWIS** said the proposal had been brought forward by Senate members of the sub-committee.

Vote: Motion failed amending HB 3 7-11 with **REP. LEWIS**, **REP. BUZZAS**, **REP. CLARK**, **REP. JAYNE**, **REP. KAUFMANN**, **REP. PETERSON** and **REP. TROPILA** voting aye.

Substitute Motion/Vote: **REP. WITT** made a substitute motion amending HB 3. Substitute motion carried unanimously.

Substitute Motion: **REP. TROPILA** made a substitute motion amending HB 3. Amendments were handed out **EXHIBIT**(aph62b03).

Discussion:

REP. JOE TROPILA explained the amendment.

REP. LEWIS said the court had awarded judgement and the department said they cannot pay it due to no funding.

REP. MCCANN commented with all of the money the Department of Health and Human Services has they should be able to pay off \$21,000.

REP. LEWIS explained the director and legal staff researched it and they were in a supplemental position this year and chose not to pay it.

CHAIRMAN VICK asked what the money was for and why they had to pay the judgement. **REP. MCCANN** said the amendment added funds and would not take away from the existing budget.

REP. KASTEN asked if this was a valid claim. **REP. TROPILA** said they had a court order on it.

REP. HAINES thought the department was not going to pay until the courts told them to do so.

REP. JOHN BRUEGGEMAN asked if DPHHS was insured through Risk Management and Tort Defense. **REP. LEWIS** said they were unable to pay the judgement out of the budget pool.

REP. TROPILA explained how DPHHS received the judgement.

REP. LEWIS said the department had reduced their appropriation through HB 3. He thought language needed to be added to the amendment reducing the appropriation for the purpose of paying the judgement.

REP. BUZZAS asked how judgements against the state usually get paid for. **REP. LEWIS** said the tort claim pool was different.

REP. JOEY JAYNE said negligence was a tort. **REP. LEWIS** said they did asked to be paid out of a tort and were told no.

Substitute Motion: **REP. LEWIS** made a substitute motion reducing item 7 and approve the line item for the like amount to pay the judgement.

Discussion:

REP. TROPILA agreed with the substitute motion.

Vote: Motion carried unanimously.

Motion: **REP. LEWIS** moved HB 3 BE AMENDED. He offered another amendment **EXHIBIT**(aph62b04) .

Discussion:

{Tape 2; Side B}

REP. KAUFMANN wanted clarification since the federal government told them they were only required to match 75% rather than 77%.

REP. LEWIS explained the surplus and how the TANIF money was spent.

REP. KAUFMANN asked if there was more money available. **REP. LEWIS** said there was \$395,000.

REP. BUZZAS asked if they were required to go to 75% or could they stay at 77% and draw down those dollars. **REP. LEWIS** explained how much money was received each year and how the reserve worked.

Vote: Motion carried 17-1 with REP. JAYNE voting no.

Motion/Vote: REP. LEWIS moved HB 3 BE AMENDED. Amendments were handed out **EXHIBIT**(aph62b05). Motion carried unanimously.

Motion/Vote: REP. FISHER moved HB 3 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 13

Motion: REP. LEWIS moved HB 13 BE AMENDED. Amendments were handed out **EXHIBIT**(aph62b06).

Discussion:

CHAIRMAN VICK asked if the amendment was neutral dealing with costs. **REP. LEWIS** believed it would come out approximately \$15,000 ahead.

REP. BUZZAS said it might set a precedence for other departments. **REP. LEWIS** explained the pay system and how it worked.

CHAIRMAN VICK asked if more research had been done on the discussion for HB 2 dealing with who gets paid the most. **REP. LEWIS** said they were fairly close in salaries.

REP. MCCANN asked about the elimination of the nonproprietary funds and why it was in HB 13. **John McEwen, State Personnel Administrator**, said he followed history when preparing the amount of the bill and did all of the costing for 16,000 positions in the system.

REP. MCCANN asked if other funds would be state specials. **John McEwen** described them and said that was correct.

REP. MCCANN asked how other funds went into the pay plan. **REP. LEWIS** said they look at the pay increases of an employee by employee basis and how the system worked.

REP. MCCANN wondered about taking the other funding out because it was part of the agreement in a pay plan. **REP. LEWIS** explained further. **Chuck Swysgood, Director, Office of Budget & Program Planning**, addressed the pay plans and how the funding worked. He said the \$200,000 contingency was high. **Clayton Schenck, Fiscal Analyst, Legislative Fiscal Division**, mentioned the contingency and explained why they were asking for \$200,000.

{Tape 3; Side A}

CHAIRMAN VICK asked about approving authorities and who had to approve going into a contingency fund. **Clayton Schenck** said they would put it into one division under Legislative Services.

CHAIRMAN VICK asked who would approve the release of money out of the fund. **Clayton Schenck** said it would be appropriated to the pay plan and would be decided by the Legislative Council.

REP. LINDEEN asked what the historical record for the executive branch of the contingency plan was. **Chuck Swysgood** thought there had been \$1 million for the last couple of sessions as it related to vacancy savings applied.

REP. LINDEEN asked if the full amount had been needed. **Chuck Swysgood** didn't think so.

REP. LINDEEN asked how much was used out of the \$1 million. **Chuck Swysgood** said he wasn't sure. **John McEwen** said the 1999 session had allocated \$700,000 general fund money. He added as of December 1, only \$57,000 of the general fund had been used with half of the year to go.

REP. LINDEEN asked about figures from the prior biennium. **CHAIRMAN VICK** explained one thing different this time was the 4% vacancy savings instead of 3% vacancy savings.

REP. MCCANN wondered about the burden being transferred over to the contingency fund.

Chuck Swysgood explained they had set the \$1 million, based on the 3% vacancy savings, in the Racicot budget with the new administration took over. He thought there would be more draw from the contingency plan than had been in the past.

REP. LINDEEN expressed concerns dealing with the vacancy savings applied and thought it should go back to the way it was prior.

Vote: Motion carried 15-3 with **REP. HAINES**, **REP. JAYNE** and **REP. LINDEEN** voting no.

Motion: **REP. LEWIS** moved **HB 13 BE AMENDED**. Amendments were presented to the committee **EXHIBIT (aph62b07)**.

Discussion:

John McEwen explained the intention to bargain the teacher matrix and not put it into law. He said they added a line for the pay bill specifically for teachers so they could bargain a pay plan.

CHAIRMAN VICK asked what the cost was. **John McEwen** said the first year was \$21,900 and for year two would be \$46,900.

REP. FISHER wondered about teacher salaries and the use of local salary indexes. **John McEwen** responded they had not researched teacher salaries.

REP. FISHER asked why teachers felt they needed to have a separate pay scale than other employees. **John McEwen** said it was common in school districts throughout the country. He added the pay was based on the level of education and the number of years employed.

REP. FISHER asked about the amenities for teachers at Pine Hill compared with the ones given in Miles City. **John McEwen** said Pine Hill teachers fell under the 15 days of vacation and 12 days of sick leave. He said a typical school district doesn't receive statutory vacation and sick leave. **Terry Minnow, Representing Teachers**, said by comparing wages to other districts the pay was certainly lower.

REP. LEWIS asked if less was made for 12-month teachers compared to 9-month teachers. **Terry Minnow** said they did make less when the calculations paid for a 9-month teacher as opposed to a 12-month teacher per hour.

Vote: Motion carried 17-1 with **CHAIRMAN VICK** voting no.

Substitute Motion: **REP. LEWIS** made a substitute motion adding a conceptual amendment.

Discussion:

REP. KAUFMANN wondered if the Senate saw fit to undo the actions taken in the House and if it would be reinstated in HB 15. **REP. LEWIS** confirmed that it would be reinstated.

Vote: Motion carried 16-2 with **REP. MCCANN** and **REP. TROPILA** voting no.

Motion/Vote: **REP. BUZZAS** moved HB 13 BE AMENDED. Amendments were presented **EXHIBIT**(aph62b08). Motion failed 7-11 with **REP. BUZZAS**, **REP. CALLAHAN**, **REP. HAINES**, **REP. JAYNE**, **REP. KAUFMANN**, **REP. LINDEEN** and **REP. TROPILA** voting aye.

Motion: REP. VICK moved HB 13 BE AMENDED. Amendments were handed out **EXHIBIT**(aph62b09).

Discussion:

REP. MCCANN supported the amendment because he felt it was for public service and everybody would recognize it.

REP. KAUFMANN asked if surrounding states had a similar clause. CHAIRMAN VICK answered probably, but Montana was the only state in the area that handled per diem this way.

{Tape 3; Side B}

REP. HAINES asked about other employees in the state. CHAIRMAN VICK said the legislators were the only ones with per diem type of pay.

REP. HAINES asked if it paid specific meal costs or motel costs. CHAIRMAN VICK explained the amendment and how it would not affect any other state employee. John McEwen said the meal rate was adjusted in law and the hotel rate had flexibility in law.

REP. HAINES asked if this only applied during a legislative session. CHAIRMAN VICK answered yes.

Vote: Motion carried unanimously.

Motion: REP. LEWIS moved HB 13 DO PASS AS AMENDED.

Discussion:

REP. BUZZAS said when the bill was passed the total structural deficit would be up to \$60 million. She encouraged the committee to think about what they were doing to the financial position of the state.

REP. WITT opposed the pay plan and gave examples. REP. HAINES pointed out the larger number of serfs.

REP. MCCANN mentioned pay plans and how they were negotiated in advance.

Vote: Motion carried 13-5 with REP. JAYNE, REP. KASTEN, REP. MCCANN, REP. PATTISON and REP. WITT voting no.

EXECUTIVE ACTION ON HB 5

Motion: REP. LINDEEN moved HB 5 BE AMENDED. Amendments were handed out **EXHIBIT**(aph62b10).

Discussion:

REP. LINDEEN explained the amendment.

REP. BUZZAS asked why this was only in Billings and if the project had come forward as part of the proposal reviewed by the long range planning committee. REP. MCCANN said it was included within the list of considerations. REP. LINDEEN explained what the project was for. **Jim Walley, Engineering Division**, added the project did not make it to the regents recommendation list and it was not recommended by the regents to the department.

CHAIRMAN VICK opposed the amendment because he thought it to be an attempt to move things out of line.

REP. FISHER said more money and energy was needed for the technology in the school system.

Vote: Motion failed 9-9 with REP. LEWIS, REP. BRUEGGEMAN, REP. BUZZAS, REP. CLARK, REP. DAVIES, REP. HAINES, REP. MCCANN, REP. PETERSON and CHAIRMAN VICK voting no.

Motion: REP. MCCANN moved HB 5 BE AMENDED. Amendments were presented to the committee **EXHIBIT**(aph62b11).

{Tape 4; Side A}

Discussion:

REP. FISHER asked what was unique about the easements on a conservation easement versus a regular easement. REP. MCCANN said the aspect dealt with a conservation easement being written for perpetuity.

REP. FISHER commented on regular easements and perpetual easements. CHAIRMAN VICK explained the logic behind the easements. He informed the committee the difficulty was coming up with a value for a term easement.

REP. KAUFMANN thought there was a difference between a conservation easement and an easement across one's property, dealing with the value of protecting habitat and wild land areas. REP. MCCANN responded this was correct. He explained language that was included in the amendment reflecting the issue.

REP. KAUFMANN didn't agree with the $\frac{1}{2}$ value of perpetuity easement for 50 years.

REP. HAINES explained a conservation easement was for preservation of the ground or area it was in.

Substitute Motion: **REP. HAINES** made a substitute motion to add a period after the word "easement" on the sixth line and delete the seventh line plus the rest of the sentence on the eighth line and add the cost and time.

Discussion:

REP. WITT thought this would bring about financial problems.

REP. MCCANN wasn't comfortable with the language being added.

{Tape 4; Side B}

REP. KAUFMANN thought the language allowed for a perpetual easement or a 50 year easement. **REP. LEWIS** said it was a private property owner issue.

REP. FISHER said when an easement is allowed, they are stuck with the terms of the easement.

REP. LEWIS didn't understand having the state tell a property owner they may or may not enter into that type of agreement.

REP. WITT said when an easement was given for perpetuity the rights of the land were given away for future generations. **Jeff Hagener, Director, Fish, Wildlife & Parks**, explained the department's experience with easements and what had been done in the past.

REP. BUZZAS asked about the language being added. **Jeff Hagener** said it would give broader discretion and more opportunity to negotiate.

REP. BUZZAS felt the amendment gave both parties more latitude.

REP. KAUFMANN felt this would undo what the conservation easement did.

REP. DAVIES understood how the department would have authority to negotiate easements and the legislature could tell them what terms were acceptable.

Vote: Motion carried 15-3 with REP. KASTEN, REP. MCCANN, and CHAIRMAN VICK voting no.

Motion/Vote: REP. MCCANN moved HB 5 DO PASS AS AMENDED. Motion carried 12-6 with REP. BRUEGGEMAN, REP. DAVIES, REP. KASTEN, REP. PATTISON, REP. WITT and CHAIRMAN VICK voting no.

REP. TROPILA asked how they could add conservation easement language into an appropriation bill. Brian McCullough said it was being interpreted as a guidance for the department to operate under.

EXECUTIVE ACTION ON HB 14

Motion/Vote: REP. MCCANN moved HB 14 BE AMENDED. Amendments were handed out during the hearing. Motion carried unanimously.

Substitute Motion: REP. KAUFMANN made a substitute motion to exclude Helena College of Technology from the proposed cuts.

Discussion:

REP. LEWIS opposed the amendment.

REP. HAINES felt more planning needed to be done.

Vote: Motion failed 5-13 with REP. CALLAHAN, REP. KASTEN, REP. KAUFMANN, REP. LINDEEN and REP. TROPILA voting aye.

Motion: REP. MCCANN moved HB 14 DO PASS AS AMENDED.

Discussion:

CHAIRMAN VICK mentioned the process the sub-committee went through to set the priorities.

Vote: Motion carried 16-2 with REP. KASTEN and REP. PATTISON voting no.

ADJOURNMENT

Adjournment: 5:00 P.M.

REP. STEVE VICK, Chairman

CECILE M. TROPILA, Transcriptionist

SV/PB

EXHIBIT (aph62bad)